



SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

# United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **FELBAMATE DERIVED COMPOUNDS**.

The specification of which was filed on December 17, 2001 as application serial no. 10/023,059 and was amended on December 17, 2001.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

<u>Application Number</u>	<u>Filing Date</u>
60/119,254	February 9, 1999
60/136,881	June 1, 1999
60/137,204	June 2, 1999

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application Number</u>	<u>Filing Date</u>	<u>Status</u>
09/913,075	August 8, 2001	Abandoned
PCT/US00/03147	February 8, 2000	Complete
09/925,224	August 9, 2001	

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Haack, John L.	Reg. No. 36,154	Nama, Kash	Reg. No. 44,255
Arora, Suneel	Reg. No. 42,267	Harris, Robert J.	Reg. No. 37,346	Nelson, Albin J.	Reg. No. 28,650
Beckman, Marvin L.	Reg. No. 38,377	Jackson Huebsch, Katharine A.	Reg. No. 47,670	Nielsen, Walter W.	Reg. No. 25,539
Bianchi, Timothy E.	Reg. No. 39,610	Jurkovich, Patti J.	Reg. No. 44,813	Padys, Danny J.	Reg. No. 35,635
Billion, Richard E.	Reg. No. 32,836	Kalis, Janal M.	Reg. No. 37,650	Parker, J. Kevin	Reg. No. 33,024
Black, David W.	Reg. No. 42,331	Klima-Silberg, Catherine I.	Reg. No. 40,052	Perdok, Monique M.	Reg. No. 42,989
Brennan, Thomas F.	Reg. No. 35,075	Kluth, Daniel J.	Reg. No. 32,146	Peret, Andrew R.	Reg. No. 41,246
Chadwick, Robin A.	Reg. No. 36,477	Lacy, Rodney L.	Reg. No. 41,136	Peterson, David C.	Reg. No. 47,857
Clark, Barbara J.	Reg. No. 38,107	Lemaire, Charles A.	Reg. No. 36,198	Prout, William F.	Reg. No. 33,995
Clise, Timothy B.	Reg. No. 40,957	LeMoine, Dana B.	Reg. No. 40,062	Schumm, Sherry W.	Reg. No. 39,422
Cochran, David R.	Reg. No. 46,632	Lundberg, Steven W.	Reg. No. 30,568	Schwegman, Micheal L.	Reg. No. 25,816
Dahl, John M.	Reg. No. 44,639	Maki, Peter C.	Reg. No. 42,832	Speier, Gary J.	Reg. No. 45,458
Drake, Eduardo E.	Reg. No. 40,594	Malen, Peter L.	Reg. No. 44,894	Steffey, Charles E.	Reg. No. 25,179
Embretson, Janet E.	Reg. No. 39,665	Mates, Robert E.	Reg. No. 35,271	Stordal, Leif T.	Reg. No. 46,251
Forrest, Bradley A.	Reg. No. 30,837	McCrackin, Ann M.	Reg. No. 42,858	Terry, Kathleen R.	Reg. No. 31,884
Gamon, Owen J.	Reg. No. 36,143	McGough, Kevin J.	Reg. No. 31,279	Tong, Viet V.	Reg. No. 45,416
Gorrie, Gregory J.	Reg. No. 36,530	McTavish, Hugh E.	Reg. No. 48,341	Viksnins, Ann S.	Reg. No. 37,748
Gortych, Joseph E.	Reg. No. 41,791	Mehrle, Joseph P.	Reg. No. 45,535	Woessner, Warren D.	Reg. No. 30,440
Greaves, John N.	Reg. No. 40,362	Muller, Mark V.	Reg. No. 37,509		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402  
Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1 : Timothy L. Macdonald

Citizenship: United States of America  
Post Office Address: 2625 Jefferson Park Circle  
Charlottesville, VA 22903

Residence: Charlottesville, VA

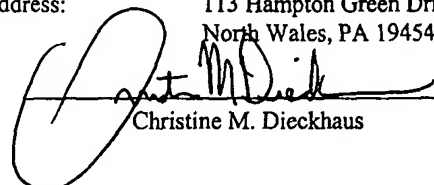
Signature:   
Timothy L. Macdonald

Date: X 30 April 2003

Full Name of joint inventor number 2 : Christine M. Dieckhaus

Citizenship: United States of America  
Post Office Address: 113 Hampton Green Drive  
North Wales, PA 19454

Residence: North Wales, PA

Signature:   
Christine M. Dieckhaus

Date: 22 Apr 2003

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

## ASSIGNMENT

WHEREAS, the **University of Virginia**, 314 Madison Hall, P.O. Box 400301, Charlottesville, Virginia 22904-4301 (the "Assignor") possesses the right, title and interest for and in an invention entitled

### **FELBAMATE DERIVED COMPOUNDS**

described in U.S. Utility Patent Application Serial No. 10/023,059, filed December 17, 2001; and any applications resulting thereof

WHEREAS, the **University of Virginia Patent Foundation**, a non-profit organization having a place of business at 1224 West Main Street, Suite 1-110, Charlottesville, Virginia 22903 (the "Assignee") is desirous of acquiring the entire right, title and interest in and to the aforesaid invention, including any tangible materials embodied in or encompassed by the invention and any trade secrets pertaining to the invention, and any improvements thereon, (the "Invention") and in and to said applications for Letters Patent thereon in the United States, its territories and possessions ("United States") and all foreign countries, including rights to claim priority, to any provisional applications, and in and to any Letters Patent of the United States or any foreign country which may be granted therefor, including any and all reissues, divisions, continuations, continuations-in-part, renewals, substitutes or extensions thereof (the "Rights");

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor has sold, assigned, transferred and conveyed, and does hereby sell, assign, transfer and convey to Assignee, its successors and assigns, the entire right, title and interest in and to the aforesaid Invention and Rights, except that Assignee hereby grants back to the Assignor a royalty free non-transferrable license to make and use the Invention under the Rights for educational and research purposes, only. The aforesaid assignment includes the right in and to all income, royalties, damages and payments now or hereafter due or payable with respect to any Letters Patent which may be granted, and in and to all causes of action (either in law or in equity), and the right to sue, counterclaim, and recover for past, present and future infringement of the rights assigned or to be assigned under this Assignment, as fully and entirely as the same would have been held and enjoyed by Assignor if this sale and assignment had not been made;

AND Assignor hereby authorizes and requests the appropriate governmental officials to issue any and all such United States or foreign Letters Patent under said invention, or resulting from any of said applications thereof, to the Assignee, as the assignee of the entire right, title and interest in and to the same;

AND Assignor hereby represents, warrants and covenants that it has the full right to convey the entire interest herein assigned, that it has not executed and will not execute any instrument or assignment in conflict herewith, and that the rights assigned herein are not otherwise encumbered by any grant, license or right;

AND Assignor further covenants and agrees that Assignors will at any time upon request make, execute and deliver without further compensation, any and all other instruments in writing, including further applications, papers, affidavits, power of attorney, assignments, and other documents, and do all lawful acts and things, which, in the opinion of counsel for said Assignee, its successors and assigns, may in any country be required or necessary more effectively to secure to and vest in said Assignee, its successors and assigns the entire right, title and interest in and to said Invention and Rights hereby sold, assigned, transferred and conveyed, and that Assignor will sign any applications for reissue, division, continuation, continuation-in-part, renewal, substitute or extension of said application for Letters Patent or any resulting Letters Patent;

AND Assignor further covenants and agrees that Assignor will at any time upon request communicate to the Assignee, its successors, assigns or other legal representatives any facts relating to the aforesaid invention known to it, and will testify as to the same in any interference, litigation, mediation, arbitration or other proceeding when requested to do so.

IN WITNESS WHEREOF, said Assignor has hereunto set its hand and seal.

Signature of  
Representative for Assignor:



David J. Hudson

Representative's Title:

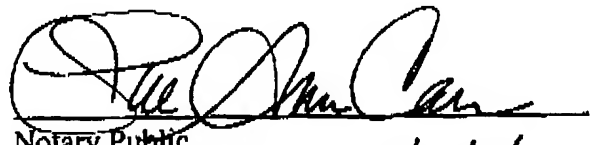
Associate Vice President for Research  
and Public Service, University of Virginia

Place of Execution:

Charlottesville, Virginia

COUNTY OF ALBEMARLE )  
 ) ss:  
COMMONWEALTH OF VIRGINIA )

On this 2<sup>nd</sup> day of May, 2003, before me, a Notary Public in and for the County of Albemarle in the Commonwealth of Virginia, personally appeared David J. Hudson, to me known as the individual of that name, who executed the foregoing instrument and acknowledged the same to be of his own free will for the purposes therein set forth.



Notary Public

My commission expires:

3/31/04

